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| 10/004,941 | 12/03/2001 | Carlos De La Huerga | 250591.90317 | 8257 |
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| Michael A. Jaskolski Quarles & Brady, LLP 411 East Wisconsin Avenue Milwaukee, WI 53202 | | | COBANOGLU, DILEK B | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| Office Action Summary | Application No. 10/004,941 | Applicant(s) DE LA HUERGA, CARLOS |
| | Examiner DILEK B. COBANOGLU | Art Unit 3626 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

Status

- 1) Responsive to communication(s) filed on 22 June 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24,193-217 and 219-238 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 194-200 and 221-230 is/are allowed.
 6) Claim(s) 1-24, 193, 201-217, 219-220, 231-233 and 238 is/are rejected.
 7) Claim(s) 234-237 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-946)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to election received on 6/22/2009. Claims 1-24, 193-217, 219-238 remain pending in this application.
2. Claims 1-24, 193-217, 219-233, 238 (first group) and claims 234-237 (second group) had been restricted in the communication sent on 06/08/2009. In the response, the Applicant amended claims 234-237, so that these claims are dependent on claim 1, and Applicant elected the first group of inventions.

Allowable Subject Matter

3. Claims 194-200, 221-230 are allowed.
4. Claims 234-237 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The primary reason that claims 234-237 distinguish over the prior art is the inclusion of the limitations, and all of these limitations which is not found in the prior art references, of medical device having first and second assemblies, associating the subassemblies with a controller, using the first subassembly identifier information to associate the controller with the medical device and the selected subassembly so that the controller can communicate with the medical device and the medical device associating the communication with the first subassembly.
6. The prior art teaches a patient identification system for relating items with patients and ensuring that an identified item corresponds to an identified patient,

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which monitors a nurse's time with the patient and maintain a chronology of patient events (Gombrich; abstract, col. 3, lines 47-53), and the description of keypad 356 includes: "The amount of time between when the "COMMUNICATIONS ERROR" message has been displayed on the LCD display 354 and when the portable handheld patient terminal 320 is returned to the base station 376 is limited to 30 seconds. When a response is received from the host computer system, the time out feature is started again. The audible alarm will indicate to the operator that the communications to the host computer system is complete. If the portable handheld patient terminal is to be used again, such as for another function or to correct a red light condition, the timeout will be 30 seconds...HOLD The "HOLD" key can only be used in specified functions. It will give the staff member the ability to hold a test order, surgical order, or a drug administration. The hold feature will give the option of: Delaying the time for the procedure/administration and the associated warnings that are given when they are late. This delay is determined by the application software of the host computer system." (Gombrich; col. 27, line 67 to col. 28, line 68).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 1, 22, 201, 212, 213, 217, 219, 220, 231, 232, 233 and 238 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich et al. (hereinafter Gombrich) (U.S. Patent No. 4,857,716) in view of Hamner et al. (hereinafter Hamner) (U.S. Patent No. 6,076,106).

A. Claims 1, 22, 201, 212, 213, 217, 219, 220, 231, 232 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 1, 22, 201, 212, 213, 217, 219, 220, 231, 232 are rejected for the same reasons given in the previous non-final Office Action dated 10/29/2008 (page numbers 4-8), and incorporated herein.

B. Newly added claim 233 recites the method of claim 1 wherein the controller is located in a location on one of a patient room where the medical device is located, a nurse station and a central location (Gombrich; col. 2, lines 5-32).

C. Newly added claim 238 recites a method for associating at least one medical device with a controller that is remote from the medical device, and one of a patient and a medication, the method comprising the steps of:

- i. providing a device identifier that includes device identifier information identifying a medical device within a communication network (Gombrich; col. 2, lines 5-47, col. 4, lines 56-64);
- ii. providing a second identifier that includes second identification information, where the second identifier is selected

from a patient identifier linked to a patient mounted device and a medication identifier linked to a medication container (Gombrich; col. 2, lines 5-47, col. 3, line 61 to col. 4, line 24, col. 4, lines 56-64);

iii. providing a portable data collector (Gombrich; abstract, col. 9, line 64 to col. 10, line 15);

iv. obtaining the device identifier information and the second identification information via the data collector (Gombrich; col. 2, lines 18-21, col. 8, lines 31-39, col. 15, lines 9-16);

v. transferring the device identifier information and the second identification information from the data collector to the controller (Gombrich; col. 4, lines 56-64, col. 15, lines 9-18);

vi. using the device identifier information to associate the controller with the medical device and associate the second identification information with control information for the medical device so that the controller can communicate with the medical device (Gombrich; col. 2, lines 5-47, col. 4, lines 56-64); and

vii. causing the controller to send a first communication to the medical device including at least a portion of the control information and receiving the first communication at the medical device.

Gombrich fails to expressly teach causing the controller to send a first communication to the medical device including at least a portion of the control information and receiving the

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first communication at the medical device. However, this feature is well known in the art, as evidenced by Hamner. In particular, Hamner discloses causing the controller to send a first communication to the medical device including at least a portion of the control information and receiving the first communication at the medical device (Hamner; abstract, col. 1, lines 56-67, col. 3, lines 31-46, col. 7, lines 29-43, col. 8, lines 27-31 and Fig. 1).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Hamner with the motivation of recognizing the device and make the device perform the required tasks in the network (Hamner; abstract, col. lines 29-43).

9. Claims 2-20, 193, 202, 203, 208-211 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich et al. (hereinafter Gombrich) (U.S. Patent No. 4,857,716), Hamner et al. (hereinafter Hamner) (U.S. Patent No. 6,076,106) and further in view of Examiner's official notice.

A. Claims 2-20 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 2-20 are rejected for the same reasons given in the previous non-final Office Action dated 10/29/2008 (page numbers 8-14), and incorporated herein.

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B. Claim 193 has been amended now to recite the method of claim 1, wherein the obtaining step includes reading a bar code on the medical device and the transferring step includes transferring the device identifier information (Gombrich; col. 15, lines 9-48).

- The obviousness of modifying the teaching of Gombrich to include a wireless communication (as rejected by Official Notice) is as addressed in the previous non-final office action dated 10/29/2008 in the rejection of claim 2 and incorporated herein.
- The obviousness of modifying the teaching of Gombrich to include device identifier information (as taught by Hamner) is as addressed above in the rejection of claim 1 and incorporated herein.

C. Claims 202, 203, 208-211 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 202, 203, 208-211 are rejected for the same reasons given in the previous non-final Office Action dated 10/29/2008 (page numbers 15-17), and incorporated herein.

10. Claims 21, 23, 24, 206, 207, 214, 215, 216 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich et al. (hereinafter Gombrich) (U.S. Patent No. 4,835,372), Hamner et al. (hereinafter Hamner) (U.S. Patent No. 6,076,106) and further in view of Kerns et al. (hereinafter Kerns) (U.S. Patent No. 4,756,706).

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- A. Claims 21, 23, 24, 206, 207, 214, 215, 216 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 21, 23, 24, 206, 207, 214, 215, 216 are rejected for the same reasons given in the previous non-final Office Action dated 10/29/2008 (page numbers 17-22), and incorporated herein.
11. Claims 204-205 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich et al. (hereinafter Gombrich) (U.S. Patent No. 4,835,372), Hamner et al. (hereinafter Hamner) (U.S. Patent No. 6,076,106), Examiner's Official Notice, Kerns et al. (hereinafter Kerns) (U.S. Patent No. 4,756,706) and further in view of Engleson et al. (hereinafter Engleson) (U.S. Patent No. 5,781,442).

A. Claims 204-205 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 204-205 are rejected for the same reasons given in the previous non-final Office Action dated 10/29/2008 (page numbers 22-26), and incorporated herein.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGLU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./
Examiner, Art Unit 3626
11/4/2009

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626